

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0007

**Withholding Tax
January 2000 through September 2001**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed late filing penalties for several months in the years 2000 and 2001. In a letter dated December 14, 2001 taxpayer requests the department abate the taxes, penalties and interest. A hearing was scheduled for February 12, 2002. The letter informing the taxpayer of the hearing was returned by the post office and the hearing officer faxed the taxpayer a memo to reschedule. Taxpayer called the hearing officer on February 21, 2002 and asked that a letter of finding be written based upon information already submitted and previously discussed. Taxpayer no longer protests the tax and interest.

Taxpayer states it purchased the company in May 2001 and has been trying to clean up errors. Taxpayer states it paid the taxes, filed all the recaps that had not been filed and is currently assuring payments are timely. June and August were paid late because it was not aware the company was an early filer. Taxpayer further states it was not responsible for the mistakes and requests a penalty waiver.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer failed to timely remit withholding tax for the 2000 year and January through September 2001. Taxpayer purchased the company in May 2001 and has corrected all the prior owner's filing errors. The late filings were primarily from the prior owners.

Taxpayer's failure to remit the tax was not the result of reasonable cause. Taxpayer's new owners are still responsible for the prior owner's omissions.

FINDING

Taxpayer's protest is denied.

DSW/RAW/JMS/dw 020703